



Governor Allen Champions the "Submerged Nine-Tenths"; Kansas Law Puts Public's Rights Above Capital and Labor's

Last Winter's Coal Strike Resulted in the Formation of a New Kind of Court

By Woodman Morrison

"WE STAND for justice for the submerged nine-tenths."

It sounds cryptic. But Governor Henry J. Allen of Kansas was not straining for an epigram when he said it. He merely was answering my question as to the significance of the new Kansas Court of Industrial Relations about which one hears so much these days, and the merits of which he is to debate with President Gompers of the American Federation of Labor.

"But isn't that rather raising the percentage?" I ventured to suggest. "I thought it was only one-tenth that was supposed to be submerged."

The Governor smiled—he does it very readily. "No, I mean nine-tenths. Listen, and I'll prove it to you. Out in Kansas—"

The Proud Jayhawker

If you ever have talked with a genuine Jayhawker you cannot have failed to notice the union with which he utters that word "Kansas." There must be something about "that grassy parallelogram called Kansas" that causes an involuntary strain on the first and second buttons of the waistcoat. But we have interrupted the Governor.

"Out in Kansas some years ago we made an investigation of the strata comprising the state.

"As the top stratum we found 1 1/2 per cent of the population made up of the big employers.

"The bottom stratum, comprising 5 1/2 per cent, was composed of labor.

"In between was a stratum composed of the remaining 92 per cent.

"That 92 per cent is US.

"With the passage of the Adamson law, labor became a contestant for the honor of the upper stratum; but we, you and I and the rest of us in the same walk of life, haven't moved. We remain the middle stratum. We are an immense, good-natured, inarticulate mass. We are utterly submerged.

"The upper stratum and the lower stratum whack each other over our shoulders.

"They starve us.

"They freeze us.

"They subject us to every inconceivable as to travel and communication.

"And we grin and bear it.

Revolt of the Nine-tenths

"Well, our good nature reached its limit last winter out in Kansas when the operators and coal miners fell out and quit producing coal just at the moment when a blizzard hit the state. Thousands of our women and children were in actual danger of freezing and starving to death. Then the nine-tenths upheaved."

"What happened?"

"Well, in the first place, we took over the mines and ran them with volunteer labor. Our young men were just back from France where they learned a lot about picks and shovels while digging trenches. This knowledge came in handy in the mines. In private life they were teachers and doctors and lawyers and farm boys, but they got out thirty thousand tons of coal and kept the state from freezing.

"And while we were digging coal we were thinking. The burden of our thoughts was that it was a pretty poor sort of state that couldn't save its citizens from suffering and death.

"When the regular miners went back to their jobs and we had got the grime off our hands and the coal dust out of our ears, I called the legislature and asked them what they were going to do about it."

The Child of Plymouth Rock

You have to know Kansas and its people and its Governor to understand what they did about it. Kansas is the child of Plymouth Rock. Remember what Whittier said about the people who settled there?

"They crossed the prairies as of old. Their fathers crossed the sea, To make the West, as they the East, The homestead of the free."

Present-day Kansas, the backbone of it, is the descendant of those New Englanders who went to the new territory, not with sickles in their hands to reap the grain, but armed with rifles to gather into the Union a new state free from slavery. The children and grandchildren of such progenitors are apt to be opinionated.

When Governor Allen suggested that the rights of the nine-tenths were superior to those of the remaining fraction Kansas joyfully acquiesced and didn't seem at all disturbed when the best legal talent Big Business and the labor unions could muster proclaimed that such a doctrine was unprecedented and revolutionary.

In the first place, Kansas thinks a good deal of Governor Allen, and what he says carries a lot of weight. Wasn't he Roosevelt's floor leader in that famous 1912 convention, and didn't he go to France and get right up on the front line and help take care of the Kansas boys and nearly lose his life in the effort? Kansas thought so much of him that it gave him the nomination for Governor without his asking for it and cabled word to that effect over to the other side.

Refused to Campaign

The nominee was up near the firing line somewhere and didn't get the word for several days, but when he did he cabled back that he was much obliged, but that he was too busy to come home and make a campaign and would Kansas, knowing all about him as it did, just go ahead and vote for him or his opponent as it thought best?

It is said that there were a few scattered precincts in the state that Henry J. Allen didn't carry, but they were rather too isolated to attract much notice. The Governor got back just in time to doff his Y. M. C. A. uniform and get into a black coat for the inauguration.

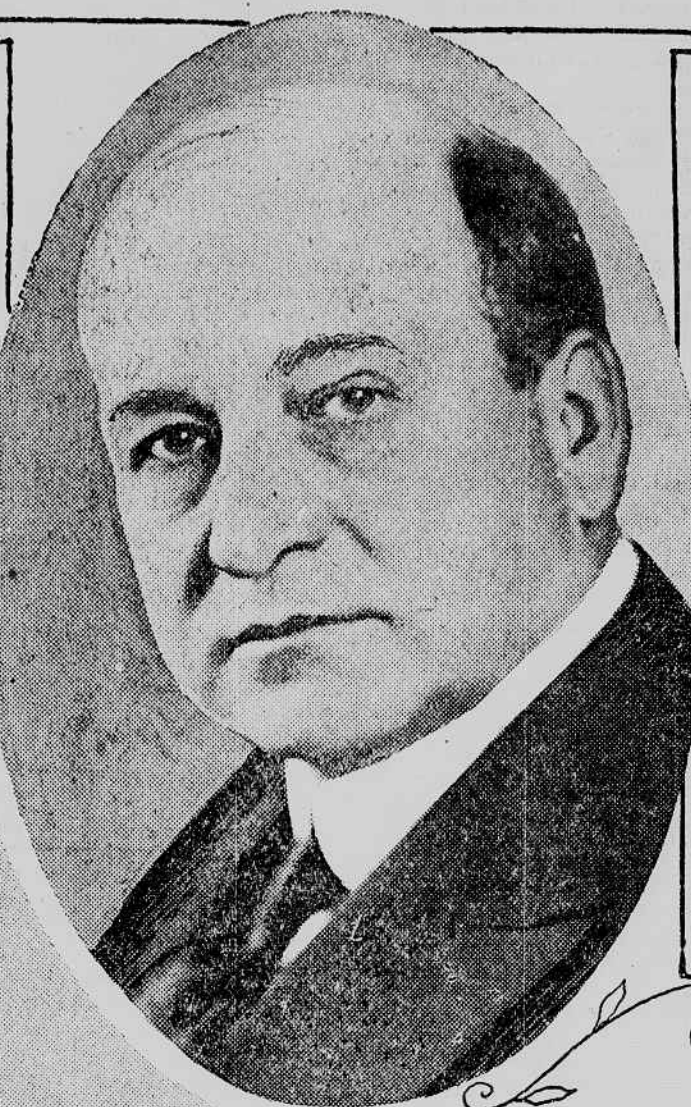
"When the legislators got together," said Governor Allen, "we asked ourselves this question:

"Has the state the right to exercise authority over industrial warfare?"

"Our answer was that the state has the same right to protect itself



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HENRY J. ALLEN, Governor of Kansas; Mrs. Allen, and their daughter, Miss Henrietta Allen, who is attending school in New York

for its existence when it says:

"The operation of the essential employments, industries, public utilities and common carriers is hereby determined and declared to be affected with a public interest and therefore subject to supervision by the state as herein provided for the purpose of preserving the public peace, protecting the public health, preventing industrial strife, disorder and waste, and securing regular and orderly conduct of the businesses directly affecting the living conditions of the people of this state and in the promotion of the general welfare."

For the person who wants specific information as to the duties of the Kansas Court of Industrial Relations it may be well to quote the section thereon:

"In case of a controversy arising

Industries, employments, public utilities or common carriers, if it shall appear to said court of industrial relations that said controversy may endanger the continuity or efficiency of service of any of said industries, employments, public utilities or common carriers, or affect the production or transportation of the necessities of life, affected or produced by said industries or employments, or produce industrial strife, disorder or waste, or endanger the orderly operation of such industries, employments, public utilities or common carriers, and thereby endanger the public peace or threaten the public health, full power, authority and jurisdiction are hereby granted to said court of industrial relations, upon its own initiative, to summon all necessary parties before it and to investigate said controversy and to make such temporary findings and orders as may be necessary to preserve the public peace and welfare and to preserve and protect the status of the parties, property and public interests involved pending said investigations, and to take evidence and to examine all necessary records and to investigate conditions surrounding the workers, and to



WHEN Governor Allen called for volunteers last winter to man the mines, which he had taken over because the people of the state were freezing, many students of the State Agricultural College responded and were photographed with the Governor on the steps of the Capitol

from industrial warfare that it has to protect itself from any other danger.

"Under the old arrangement in the case of a dispute between capital and labor arbitration might be resorted to. In that case capital would select a representative and labor another, and the two would name a referee. Then one of three things might happen:

"The referee would align himself with the representative of capital and give that side the victory.

"He would join hands with labor, to labor's advantage.

Might Be a "Dog Fall"

"Or he would effect a compromise, giving each side something. Out in this country that is what we call a 'dog fall.'

"Rarely indeed was there any consideration of the rights of the public.

"But out in Kansas we have now

established a triangle, with capital, labor and the public at the corners. And here is where the submerged nine-tenths comes into its own.

"We have laid down the dictum that in certain essential industries the rights of the public are superior to those of either labor or capital or labor and capital.

"John Adams gave utterance to the finest definition of government ever promulgated. He said:

"The chief aim of government is justice."

"If justice has ceased to be the chief aim of our government then American institutions are a failure. Kansas asked itself if there was any class that could live above the law. And the Kansas answer was an emphatic 'No.'

"We believe in a justice that is administered under the government."

"What did capital and labor think of this new law?"

The reply was pithy: "Capital called it state socialism. "Labor called it involuntary servitude."

"Did they fight?" I asked. A hint of a smile twisted the corner of the Governor's mouth.

"Well, rather," was his comment.

Capital Threatened Reprisals

"Labor was much aroused," he continued, "but capital really did the more effective fighting. It threatened economic pressure that would injure our business."

How much weight the threats carried is shown in the results. The special session did not adjourn until it had passed a bill providing for a court which should have jurisdiction over four essential industries. These four industries are:

Food.
Clothing.
Fuel.
Transportation.

It also has complete control over

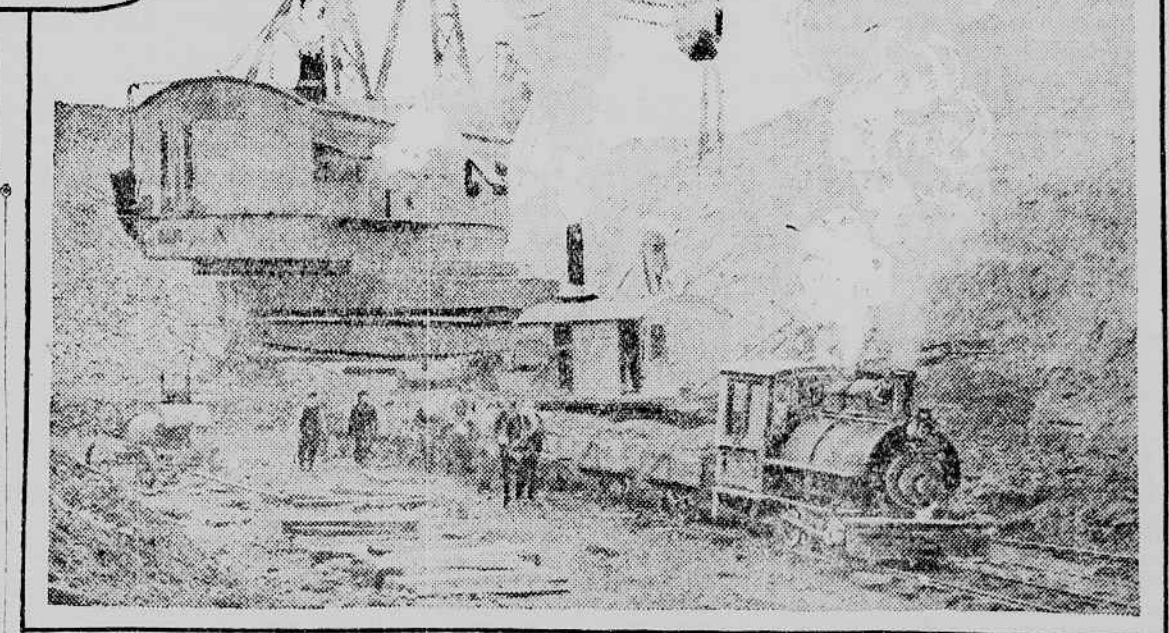


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VOLUNTEER workers taking coal out of a Kansas "stripper" mine last winter at the time of the miners' strike. Much of the Kansas coal is so near the surface it can be stripped off with a steam shovel.

all industries directly connected with these essential commodities. The law gives its own best excuse

ing between employers and workers, or between groups or crafts of workers, engaged in any of said

consider the wages paid to labor and the return accruing to capital, and the rights and welfare of

the public, and all other matters affecting the conduct of said industries, employments, public utilities or common carriers and to settle and adjust all such controversies by such findings and orders as provided in this act.

"The court of industrial relations shall order such changes, if any, as are necessary to be made in and about the conduct of said industry, employment, utility or common carrier, in the matters of working and living conditions, hours of labor, rules and practices, and a reasonable minimum wage, or standard of wages, to conform to the findings of the court in such matters, as provided in this act, and such orders shall be served at the same time and in the same manner as provided for the service of the court's findings in this act: Provided, all such terms, conditions and wages shall be just and reasonable and such as to enable such industries, employments, utilities or common carriers to continue with reasonable efficiency to produce or transport their products or continue their operations and thus to promote the general welfare."

Permits Collective Bargaining

Labor's rights under the law are sharply defined by the section which reads:

"It is hereby declared necessary for the promotion of the general welfare that workers engaged in any of said industries, employments, utilities or common carriers shall receive at all times a fair wage and have healthful and moral surroundings while engaged in such labor; and that capital invested therein shall receive at all times a fair rate of return to the owners thereof. The right of every person to make his own choice of employment and to make and carry out fair, just and reasonable contracts and agreements of employment is hereby recognized."

The law thus specifically gives the unions the right of collective bargaining, for which they have so long contended, it being the only law in this country which does that. Balancing this exceptional concession, labor is told in this fashion just what it can and can not do:

"It shall be unlawful for any person, firm or corporation, or for any association of persons, to do or perform any act forbidden, or to fail or refuse to perform any act or duty enjoined by the provisions of this act, or to conspire or confederate with others to do or perform any act forbidden, or to fail or refuse to perform any act or duty enjoined by the provisions of this act, or to induce or intimidate any person, firm or corporation engaged in any of said industries, employments, utilities or common carriers to do any act forbidden, or to fail or refuse to perform any act or duty enjoined by the provisions of this act, for the purpose or with the intent to hinder, delay, limit or suspend the operation of any of the industries, employments, utilities or common carriers herein specified or indicated, or to delay, limit or suspend the production or transportation of the products of such industries or employments or the service of such utilities or common carriers. Provided, that nothing in this act shall be construed as restricting the right of any individual employee engaged in the operation of any such industry, employment, public utility or common carrier to quit his employment at any time, but it shall be unlawful for any such individual employee or other person to conspire with other persons to quit their employment or to induce other persons to quit their employment for the purpose of hindering, delaying, interfering with or suspending the operation of any of the industries, employments, public utilities or common carriers governed by the provisions of this act, or for any person to engage in what is known as 'picketing,' or to intimidate by threats, abuse, or any other manner, any person or persons with intent to induce such person or persons to quit such employment, or for the purpose of deterring or preventing any other person or persons from accepting employment or from remaining in the employ of any of the industries, employments, public utilities or common carriers governed by the provisions of this act."

Restrictions on Capital

Capital finds itself as completely bound as does labor, the limitations being stated thus:

"It shall be unlawful for any person, firm or corporation en-

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